IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 2546 OF 2005

Tata Chemicals Limited ...Applicants

V/s.

The State of Maharashtra & Anr ...Respondents

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Mr. Shirish Gupte, Sr. counsel with Mr. Subodh Desai, Mr. Avinash Joshi i/b M/s. Mulla and Mulla, the applicant.

Ms.S.V. Gajare, A.P.P. for Respondent Nos. 1 & 2.

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CORAM: SMT. V.K. TAHILRAMANI, J.

DATE OF RESERVING THE ORDER : 30.08.2005

DATE OF PRONOUNCING THE ORDER : 20.09.2005

P.C.:-

1. Heard the learned senior counsel for the applicant and the learned A.P.P. for the State.

2. The applicants have prayed for quashing of Criminal Complaint No. 1001/S/1999 which is pending before the learned Additional Chief Metropolitan Magistrate, 9th court, Bandra, Mumbai. The said case is under Rule 23(7) of Standard of Weights and Measures (Packaged Commodities) Rules, 1977 (hereinafter referred to as the "said Rules" for the

sake of brevity) r.w. Section 33 and 51 of the Standard of Weights and Measures (Enforcement) Act, 1985 (hereinafter referred to as the "said Act" for the sake of brevity), punishable under Section 51 of the said Act.

3. It is the prosecution case that the applicants are the manufacturers of "Rakshak" washing powder. While checking for declaration of Rakshak Washing powder, the complainant i.e. the Inspector of local Meteorology, found that the manufacturer i.e. the applicants had declared double retail sale price and also altered the retail sale price once printed on the wrapper, hence, as per the complaint Rule 23(7) was violated.

4. In order to appreciate the contentions of both sides, it would be necessary to re-produce Rule 23(7) of the said Rules.

23. Provisions relating to wholesale dealer and retail dealers.

23(7). The manufacturer or packer shall not alter the price on the wrapper once printed and used for packing.

5. In the present case, it is seen that the manufacturer i.e. the applicant Tata Chemicals Ltd. had manufactured washing powder by the name of Rakshak. On the wrapper in which the said washing powder was being sold it is clearly printed on the top left hand corner in bold letters "special offer price Rs.19.00". At the bottom of the said packet, it is stated that the maximum retail price "inclusive of all taxes: Rs.22.00." The said price of Rs.22.00 has been boldly scored out and immediately next to it price of Rs.19.00 has been printed in bold lettering. It is an admitted fact that the price at the top and bottom have been printed at one and the same time. It is not as if the price on the wrapper was earlier printed as Rs.19.00 or Rs.22.00 and thereafter the price was altered to Rs.19.00 or Rs.22.00. The printing of both the prices has taken place at one and the same time. Thus, it is not as if one price was earlier printed and thereafter the price on the wrapper once printed was changed. On looking to the wrapper, it is clear that the manufacturing company wanted to convey to the consumers that though the price of the product was Rs.22.00, as a special introductory offer or promotional offer, the product was being offered to the consumers at Rs.19.00.

6. The main object and reason behind the provisions of the said Act and the Rules is that the consumer should be protected. Rule 23(7) has obviously been

made for the benefit of the consumers. The purpose of Rule 23(7) is clearly to safeguard and protect the rights of the consumer as it was often noticed that manufacturers and retailers for their own benefit were altering the price on the wrapper after it was printed. The entire object behind this rule appears to be that the interest of the consumer has to be kept in the forefront and the prime consideration seems to be that the commodity ought to be made available to the common man at a fair price. Thus, one of the objects behind this rule is to prevent affixing of repeated labels and stickers on the printed wrappers to increase the price of the commodity which would be detrimental to the interest of the consumer.

7. In the present case, it is seen that once the price was printed on the wrapper, thereafter, it has not been altered. Both the prices were printed on the packet at one and the same time. There is no question of alteration of price on the wrapper after it was printed. It is an admitted position that no separate stickers or labels were affixed on the wrapper thereby changing the earlier printed price. From the bold lettering at the left hand corner on the wrapper, it is clear that as a special offer, the price of Rs.19.00 was being offered. From the print which is on the bottom of the wrapper, it is clearly seen that the price of the product was Rs.22.00 but

it was being offered at the price of Rs.19.00 i.e. at a lesser price to the consumer. The offering of the product at a lesser price is clearly for the benefit of the consumer and it cannot be said to be detrimental to the interest of the consumer.

8. Thus, looking to the fact that the product is worth Rs.22.00 but it was being offered at Rs.19.00, it cannot be said that it was detrimental to the interest of the consumer. As stated earlier, there is no alteration of price on the wrapper after it was printed. In this view of the matter, no offence can be said to be made out under Rule 23(7) of the said Rules. Hence, I am inclined to quash the complaint and accordingly Criminal Complaint No. 1001/S/1999 is quashed.

9. Application is allowed.

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